

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE FLONASE ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

Direct Purchaser Actions

Case No. 08-cv-3149 (Direct)

Hon. Anita B. Brody

UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF SETTLEMENT

Direct purchaser plaintiffs American Sales Company, Inc., Meijer, Inc., and Meijer Distribution, Inc. (“plaintiffs”), by their counsel, move for an order pursuant to Fed. R. Civ. P. 23(e):

1. Granting preliminary approval of a settlement of this action between the previously-certified direct purchaser class¹ and Defendant SmithKline Beecham Corporation d/b/a GlaxoSmithKline, including GlaxoSmithKline LLC and GlaxoSmithKline plc (“GSK”);
2. Approving the proposed form and manner of notice to the class, plan of distribution, and claim form;
3. Appointing Rust Consulting, Inc. as Settlement Administrator;
4. Appointing The Huntington National Bank as Escrow Agent, approving the form of Escrow Agreement; and
5. Authorizing a proposed schedule for completing the approval process.

¹ On November 10, 2010, as modified by the February 9, 2011 Order, the Court certified a class of direct purchasers of Flonase (“class”), defined as:

All persons or entities in the United States and its territories who purchased Flonase nasal spray directly from Defendant (or any of its predecessors or affiliates) at any time from May 19, 2004 until March 6, 2006, excluding defendant, its predecessors, officers, directors, management, employees, subsidiaries, parent or affiliates, and government entities or persons.

Following Court-approved notice [Dkt. No. 237], no class members requested exclusion from the class.

In support of this motion, plaintiffs submit, as more fully described in the accompanying memorandum of law in support of the preliminary approval motion and exhibits thereto, that the settlement represents a beneficial result to the class in that it provides a cash payment to the class of \$150 million in exchange for certain releases to GSK and an agreement to dismiss this action with prejudice, as set forth in detail in the settlement agreement annexed as Exhibit A to the accompanying memorandum of law. By this motion, plaintiffs also:

1. Submit for approval a proposed form of notice including procedures for objecting to the settlement, and plan for the notice to be sent by first class mail to all class members and published in both The Pink Sheet magazine and The Pink Sheet electronic newsletter. This manner of notice was employed to notify the class of the Court's class certification order and is in compliance with Fed. R. Civ. P. 23 [Dkt. No. 237].
2. Submit for approval a proposed plan of distribution calling for the distribution of the settlement amount, net of attorneys' fees and expenses, class representative awards, and other costs as shall be allowed by the Court, to all class members *pro rata* based on their direct purchases of Flonase from GSK during the class period.
3. Propose Rust Consulting, Inc. ("Rust") as settlement administrator. Rust is a highly experienced settlement administrator with special proficiency in the administration of claims involving purchases of pharmaceutical products. Rust served as the notice administrator of the Court's class certification order.
4. Propose The Huntington National Bank ("HNB") as the Escrow Agent. HNB, established in 1866, is among the top 1% of banks in the United States based on size. It holds over \$57 billion in assets and includes 680 offices nationwide. HNB's National Settlement Team has handled more than 900 settlements for law firms, claims administrators, and regulatory agencies. Class counsel have utilized the services of HNB as escrow agent in many class action settlements previously to great success.
5. Propose the following schedule for the provision of notice to class members of the settlement, class counsel's application for attorneys' fees, costs, and class representative awards, class members' filing of any objections to the settlement, and the holding of the hearing on final approval:

Within 10 days from filing of the motion for preliminary approval	GSK to send out CAFA notices. ²
Within 15 days from entry of preliminary approval order	Settlement administrator disseminates notice to the class via first class mail.
Within 30 days from entry of preliminary approval order	Class counsel submits motion for attorneys' fees and expenses and incentive award for class representative.
Within 60 days from entry of preliminary approval order	Class members' deadline to object to the settlement.
Within 75 days from entry of preliminary approval order	Class counsel submits motion for final approval of the settlement.
On a date to be set by the Court no less than 100 days following the filing of this motion	Court holds fairness hearing.

WHEREFORE, based on the foregoing, and for the reasons set forth in the accompanying memorandum of law and exhibits, plaintiffs' motion should be granted.

Dated: December 11, 2012

Respectfully submitted,

/s/ Joseph H. Meltzer

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² Pursuant to the Class Action Fairness Act of 2005 ("CAFA"), GSK is required to serve proposed settlement documents (*i.e.*, a copy of the settlement agreement, the complaint, notice of scheduled hearings, and any proposed or final orders or judgments) on appropriate state and federal officials, within 10 days of filing a proposed settlement with the Court. An order giving final approval of a proposed settlement may not be issued earlier than 90 days after the date on which the officials are served. *See* 28 U.S.C. §1715.

/s/ Thomas M. Sobol

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Co-Lead Counsel for the Direct Purchaser Class

CERTIFICATE OF SERVICE

I hereby certify that I have this day filed and served through the Court's ECF system a true and correct copy of the foregoing.

/s/ Joseph H. Meltzer